

tion of the widow or particular tenant; and if the widow should have married again it will be necessary that the testimony by affidavit should also identify, or shew her to be the same person under a different name, claiming with her then husband. (*h*) And as the valuation of the life interest is to be made as of the day of the sale by which it is extinguished, the age, &c. of the particular tenant should be shewn as of that day.

In this case the dower right to a part of the estate was extinguished by the sales made on the first day of May, 1829; and the order of the 17th of July, 1829, was made on the affidavit of the age, &c. of the widow as of that day of sale. But as the residue of the estate was not sold, and the dower right thereby extinguished until the 17th of December, 1830; the age of the widow had thus far advanced, and there might have been such a material change in her health, &c. as would have made a great difference in the amount to be awarded to her according to the Chancery rule; and therefore, there should have been, according to that rule, another affidavit as to her age, &c. But as this is a case governed by the limited legislative rule, and no objection is made, such further proof, as to her age, &c. as of the day of the last sale may be dispensed with.

Considering the life interest as having been sold and extinguished by the sale of the whole; when that sale has been finally ratified, the real estate is thereby converted, and the proceeds thereof vested absolutely in those then entitled to them; and consequently, if the particular tenant should die after that time, his or her share of the proceeds, according to age, &c., on the day of sale, will not, as the particular estate would have done, revert or sink, but go to the assignee or legal representatives of the deceased particular tenant. (*i*)

Whereupon it is *Ordered*, that the foregoing report of the auditor be, and the same is hereby ratified and confirmed; and the trustee is directed to apply the proceeds accordingly, with a due proportion of interest.

---

(*h*) *Greenwood v. Clarke*, ante 268.—(*i*) *Maccubbin v. Cromwell*, 2 H. & G. 448; *John Carr and others v. Richard Watkins and others*, 12 June, 1838.—M. B.